

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Ricky Dean Tate, #261418,

Plaintiff,

v.

A/W Florence Mauney, Asst. Warden; OFS
A. Sanders, A-2 Shift; and Ofc. Livingston,
A-2 Shift,

Defendants.

C/A No. 9:15-cv-1858-TLW-BM

ORDER

Plaintiff Ricky Dean Tate, a prisoner proceeding *pro se*, filed this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff asserts two claims; one based on the alleged denial of his access to the courts, and another based on an alleged incident involving excessive force. (*Id.*) Defendants filed a motion to dismiss these claims based on several grounds. (ECF No. 14.) Plaintiff filed a brief in opposition, and Defendants replied to that brief. (ECF Nos. 19 & 22.)

The matter now comes before this Court for review of the Report and Recommendation (R&R) filed by Magistrate Judge Marchant (ECF No. 32), to whom this case was assigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), DSC. In the R&R, the Magistrate Judge addresses Defendants' motion to dismiss and recommends that the Court dismiss Plaintiff's access to the courts claim without prejudice, and dismiss Defendant Sanders as a party. The Magistrate Judge further recommends that Plaintiff's excessive force claim survives at this point in the litigation. Plaintiff filed a response stating that he did not object to the R&R. (ECF No. 34.)

This Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge's R&R to which a specific objection is registered, and may accept, reject, or modify, in

whole or in part, the recommendations contained in that R&R. 28 U.S.C. § 636. In the absence of objections to the R&R, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

This Court carefully reviewed the R&R in this case (ECF No. 34) and, noting that Plaintiff does not object, the R&R is hereby **ACCEPTED**. Therefore, for the reasons articulated by the Magistrate Judge in the R&R, Plaintiff's access to the courts claim is **DISMISSED** without prejudice, and Defendant Sanders is **DISMISSED** as a party to this action.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

December 23, 2015
Columbia, South Carolina